



**STATE OF NEW JERSEY**

In the Matter of Dariusz Szczesny,  
Sheriff's Officer Lieutenant  
(PC2099U), Middlesex County

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-1919

Examination Appeal

**ISSUED:** March 6, 2019 (JH)

Dariusz Szczesny appeals his score on the promotional examination for Sheriff's Officer Lieutenant (PC2099U), Middlesex County. It is noted that the appellant failed to achieve a passing score.

The subject examination, which was administered on May 4, 2017, consisted of five questions in short answer format (questions 1 and 2) and essay format (questions 3, 4 and 5). Candidates were provided with a total of three hours to respond to all five questions. It is noted that at review, candidates were informed that question 4 had been omitted from scoring.

As noted in the 2017 Sheriff's Officer Lieutenant Orientation Guide (Orientation Guide), which was available on the Commission's website, the examination content was based on a job analysis that identified a number of work components. The test was worth 80 percent of the final average and seniority was worth the remaining 20 percent.<sup>1</sup> Of the test weights, 25% of the score was problem solving/critical thinking, 10% was the New Jersey Title 2C short answer, 10% was the Attorney General Guidelines essay raw score, 25% was the

<sup>1</sup> While the Orientation Guide noted that "a candidate's final score (and rank) on the promotional list consists of two weighted parts: the test score and the seniority score . . .," the Commission notes that their respective weights were not provided to candidates.

supervision/interpersonal relations essay raw score and 15% was written communication.<sup>2</sup>

During the development of the exam, law enforcement Subject Matter Experts (SMEs) determined the scoring criteria. Scoring decisions were based on SME-identified actions or statements which candidates should indicate in order to successfully address the situation described in the questions. The statements a candidate provided in his or her response were compared to these actions or responses, identified by the SMEs, to arrive at his or her score. Scoring independently, two assessors reviewed candidates' responses. Some actions or statements were determined, by SMEs, to be more critical than others. Thus, some actions or statements were worth more than others. If the statement was a response that matched one of the SME approved responses, the statement was recorded and assessors awarded credit for that statement. Each assessor used a 0-5 point scale to determine a candidate's score. A candidate's score was based on how well his or her response addressed the aspects of the scenario or question, that SMEs determined were needed to properly answer the question. A candidate's score for each question is an average of the scores from each assessor. On the 2017 Sheriff's Officer Lieutenant Essay Examination Combined Scoring Sheet (Combined Scoring Sheet), candidates were provided with "missed opportunities," *i.e.*, examples of additional actions or statements, that they could have provided to fully address the question. These were actions or statements that could have increased a candidate's score.

On appeal, regarding question 1, Szczesny maintains that "it is impossible to establish one ideal answer for this scenario. Each county has their own policies and procedures as well as methods for handling a scene." In this regard, he notes that in Middlesex County "we never request the county SWAT team. The prosecutor's office would be responsible for that." He also notes that Middlesex County has a rule which forbids the use of K-9 units at the courthouse because they are "intimidating." The appellant argues that "relief officers are a luxury that Middlesex County does not have. We are always short of manpower and overtime is extremely frowned upon." He adds that "access points were mentioned on my exam but how can someone who doesn't know the layout of our buildings make that determination . . . I answered question #1 exactly how it would be handled in Middlesex County. I have been involved in numerous high[-]profile cases as an officer and as a supervisor . . . I feel that getting the minimal score for such a subjective question is extremely unfair and prejudicial to anyone from Middlesex County." For question 3, the appellant presents:

---

<sup>2</sup> At review, candidates were provided with a form entitled, "2017 Sheriff's Officer Lieutenant Exam Score Calculation Sheet," which provided a description of how the candidates test scores were calculated. It is noted that this weighting accounts for the omission of question 4, search and seizure/arrest, from scoring.

I gave a definition of Bias Crime and I forgot to mention ethnicity. However[,] I mentioned the numerous other criteria that are in the definition. I also answered correctly when the state police needs to be notified. I then answered fourteen or fifteen out of the sixteen steps that a supervisor needs to do at the scene of a bias crime.<sup>3</sup> That is approximately 90% of the question answered and yet I only received two points out of five.

## CONCLUSION

An independent review of the appellant's test booklet, a listing of the SME identified actions, and other examination material, reveals no basis to award additional credit to the appellant.

Question 1 indicates that in a few months, there will be a high-profile case at the courthouse which you anticipate will receive a lot of media attention. Candidates were instructed to list the considerations they should make with respect to ensuring the safety and security of staff and citizens during this court proceeding. A review of the appellant's Combined Scoring Sheet finds that the assessors noted the following missed opportunities: relief officers; access points; secondary screening; K-9 sweeps; and SWAT team. Despite the appellant's claim that this question "is extremely unfair and prejudicial to anyone from Middlesex County," it is noted that the question did not ask candidates to base their responses

---

<sup>3</sup> The appellant appears to be referring to the following portion of the Guidelines:

### **Law Enforcement Supervisor**

Upon arriving at the scene of a suspected or confirmed bias incident, he or she will:

1. Supervise the preliminary response and investigation.
2. Confer with the initial responding officer
3. Assist in the stabilization of the victim as required.
4. Ensure that the crime scene is properly protected and preserved.
5. Take steps to insure that the incident does not escalate.
6. Determine if additional personnel is required to provide complete public safety services.
7. Arrange for an immediate increase of patrols throughout the affected area, as appropriate.
8. If the potential exists for further acts of violence or damage to property, arrange for officers to be assigned to the location of the incident in a fixed post position.
9. Attempt to verify if the occurrence is a confirmed bias incident following the guidelines for confirming bias incidents contained in these Standards. Verification assistance should be provided by other levels of command and/or additional investigative personnel, as required.
10. Request that investigative personnel respond to the scene if a bias incident is suspected or confirmed.
11. Notify headquarters and other levels of command regarding the facts and circumstances surrounding the incident.
12. Request that the next level of command respond to scene, as appropriate.
13. Provide headquarters with updated, factual information regarding the incident.
14. Ensure that the chief executive of the law enforcement agency is notified of the incident.
15. Ensure that the necessary basic information is obtained in order to sustain a follow-up investigation.
16. Ensure that all initial response reports are properly completed as soon as possible.

on their particular jurisdiction or on how candidates handled a high-profile case in their particular jurisdiction in the past. Rather, as noted above, candidates were scored in accordance with pre-established, SME identified actions to insure objectivity. In this regard, as indicated above, the SMEs helped determine acceptable responses based upon the material presented to the candidates. As such, the SMEs determined that considering access points, relief officers, K-9 sweeps and SWAT teams were appropriate responses for Sheriff's Officer Lieutenants in New Jersey.

Question 3 referred to the Attorney General Guidelines on Bias Incident Investigation Standards (revised January 2000) and contained three parts, Part A, Part B and Part C: Part A asked for the definition of a bias incident according to the Attorney General Guidelines on Bias Incident Investigation Standards; Part B asked when and how the Office of Bias Crimes and Community Relations in the Division of Criminal Justice should be contacted when a suspected bias incident has occurred; and Part C asked for the responsibilities of a law enforcement supervisor when he or she arrives at the scene of a suspected bias incident. A review of the appellant's Combined Scoring Sheet finds that the assessors noted the following missed opportunities: offense based on ethnicity (Part A); notify the Office of Bias Crimes and Community Relations of all suspect or confirmed bias incidents that involve homicide, rape and assault (Part B); take steps to ensure that the incident does not escalate (Part C); and ensure that all initial reports are completed as soon as possible (Part C).<sup>4</sup> In regard to Part A, the appellant indicated in his response, "A bias incident is any incident that is driven by race, religion, sex, sexual orientation, age, disability or beliefs that affects a person, place, or thing." The Amendment to Bias Incident Investigation Standards (issued October 11, 1995), which is incorporated in the above noted Guidelines,<sup>5</sup> in pertinent part:

---

<sup>4</sup> The Combined Scoring Sheet advises candidates, "Examples of missed opportunities in the candidate's response can be found below. (*Note: This is not an exhaustive list of missed opportunities.*)"

<sup>5</sup> See page 2. *Id.* It is noted that the above noted Amendment provides, "all other definitions and requirements in the Bias Incident Investigation Standards not consistent with these amendments shall remain in full force and effect." In this regard, initially, the Guidelines (issued September 1991) provided:

##### 5. DEFINITION OF BIAS INCIDENT AND RELATED CRIMINAL VIOLATIONS

For New Jersey Law Enforcement purposes, a bias incident is defined as any suspected or confirmed offense or unlawful act which occurs to a person, private property, or public property on the basis of race, color, religion, sexual orientation or ethnicity. An offense is bias-based if the motive for the commission of the offense or unlawful act is racial, religious, ethnic or pertains to sexual orientation.

For New Jersey law enforcement purposes, a bias incident is defined as any suspected or confirmed offense or unlawful act which occurs to a person, private property, or public property on the basis of race, color, religion, gender (except matters involving a violation of *N.J.S.A. 2C:14-2* or *2C:14-3*), handicap, sexual orientation or ethnicity. An offense is bias based if the motive for the commission of the offense or unlawful act pertains to race, color, religion, gender, handicap, sexual orientation or ethnicity. For the purpose of this definition, the term, 'handicap' shall be construed consistently with *N.J.S.A. 10:5-5(q)*.

It is noted that a review of the record finds that the assessors credited the appellant with identifying approximately 75% of the SME approved responses for this part. With regard to Part B, the appellant indicated in his response:

Usually the prosecutor's office will send out an investigator and contact the Office of Bias Crime[s] and Community Relations in the Division of Criminal Justice. If the prosecutor's office delegates responsibility of calling the Division of Criminal Justice back on the responding supervisor, then he must call them as soon as reasonably possible, but within 24 hours.

The Amendment to Bias Incident Investigation Standards Promulgated September 1991 (issued September 22, 1994), which is incorporated in the above noted Guidelines,<sup>6</sup> provides in pertinent part:

1. The Office of Bias Crime and Community Relations in the Division of Criminal Justice shall be the office for the statewide investigation and monitoring of bias incidents, and all law enforcement agencies shall give them full cooperation. Whenever assistance is needed by local and county law enforcement authorities regarding bias incidents, the Office of Bias Crime and Community Relations shall be contacted. That office will then coordinate appropriate additional resources with the requesting agency.
2. To facilitate inter-agency cooperation, the Office of Bias Crime and Community Relations in the Division of Criminal Justice shall be notified of all suspected or confirmed bias incidents as soon as possible, but in no event later than 24 hours after a law enforcement agency gains knowledge of such incidents. This requirement shall be in addition to notification of the county prosecutor's office within the same time period as set forth in the

---

<sup>6</sup> See page 3. *Id.*

'Bias Incident Investigation Standards -- Policy and Procedures for New Jersey Law Enforcement' promulgated in 1991.

3. Notwithstanding the above, the Office of Bias Crime and Community Relations in the Division of Criminal Justice shall be notified immediately of all suspected or confirmed bias incidents (1) that involve homicide, rape, aggravated assault or arson, (2) that involve a law enforcement officer as the alleged perpetrator, (3) that involve an organized hate group as the suspected perpetrator, and (4) that involve the potential to generate large scale unrest. This requirement shall be in addition to notification of the county prosecutor's office and the Central Security Bureau of the New Jersey State Police as set forth in the 'Bias Incident Investigation Standards -- Policy and Procedures for New Jersey Law Enforcement' promulgated in 1991.

As such, the appellant failed to demonstrate a comprehensive knowledge of when and how the Office of Bias Crimes and Community Relations in the Division of Criminal Justice should be contacted. In this regard, a review of the appellant's test booklet finds that the appellant failed to identify approximately 80% of the SME approved responses for this part. Regarding Part C, the appellant does not specify which of the "fourteen or fifteen out of the sixteen steps" he believes he indicated in his response. However, it is noted that the appellant does not dispute the two missed opportunities indicated by the assessors for Part C.<sup>7</sup> Moreover, it is further noted that a review of the record finds that the assessors credited the appellant with identifying approximately 50% of the SME approved responses for this part. Furthermore, a review of the appellant's test booklet finds that there is no basis to award additional credit. Accordingly, the appellant's argument that he answered "approximately 90% of the question" is clearly misplaced.

### **ORDER**

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

---

<sup>7</sup> It is emphasized that the "missed opportunities" indicated on a candidate's Combined Scoring Sheet did not constitute a complete list of the responses missed by the candidate but rather, as noted above, they were examples of some of the actions or statements that a candidate could have provided to fully address the question.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 6TH DAY OF MARCH, 2019

*Deirdre' L. Webster Cobb*

---

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Dariusz Szczesny  
Michael Johnson  
Records Center